

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHOQ, LLC,
a Texas Limited Liability Company,

Plaintiff,

v.

No. 1:20-cv-00404-NF-KHR

HOLISTIC HEALING, LLC,
a New Mexico limited liability company, and
JOHN DOE, an individual,

Defendants.

**PLAINTIFF'S CONSOLIDATED MOTION FOR
EXPEDITED DISCOVERY, LEAVE TO FILE A SECOND
AMENDED COMPLAINT AND FOR AN EXTENSION OF
TIME TO FILE ITS SECOND AMENDED COMPLAINT**

Now comes Plaintiff, Choq, LLC, by and through its attorneys Revision Legal, PLLC and Egolf + Ferlic + Martinez + Harwood, LLC, and for its Consolidated Motion for Expedited Discovery, Motion for Leave to Amend and Motion for and Extension of Time to File an Amended Complaint states the following:

1. Plaintiff requires expedited discovery from Defendant Holistic Healing in order to identify the John Doe Defendant in this case.
2. While formal discovery does not generally commence until after the parties complete an initial conference pursuant to Fed. R. Civ. P. 26(f), the Court may, in the exercise of its broad discretion, alter the timing, sequence and volume of discovery. *See* Fed. R. Civ. P. 26(b)(2) and 26(d).

3. Plaintiff has prepared a single interrogatory which will provide Plaintiff with sufficient information to identify and serve the John Doe Defendant.

4. While the parties have not yet begun formal discovery in this case, it is in the interests of justice for the Court to grant Plaintiff such targeted early discovery as the identification of the John Doe Defendant in this case will aid in the expeditious management of this case.

5. The requested expedited discovery is not overly burdensome for Defendant Holistic Healing.

6. Plaintiff has prepared the Second Amended Complaint provided as Exhibit D to its Brief in Support of this Motion.

7. Plaintiff requests that the Court grant it leave to amend the Complaint to fully identify the John Doe Defendant after Defendant Holistic Healing responds to Plaintiff's interrogatory.

8. Plaintiff requests that the Court grant it leave to amend the Complaint to add a claim for Copyright Infringement after the U.S. Copyright Office processes Plaintiff's expedited application for copyright registration filed on August 11, 2020.

9. "The United States Court of Appeals for the Tenth Circuit has held that district courts should grant a plaintiff leave to amend when doing so would yield a meritorious claim." *Skyline Potato Co. v. Tan-O-On Mktg., Inc.*, 879 F. Supp. 2d 1228, 1243 (D.N.M. 2012) (citing *Curley v. Perry*, 246 F.3d 1278, 1284 (10th Cir. 2001); see also *In re Thornburg Mortg., Inc. Sec. Litig.*, 265 F.R.D. at 579-80).

10. Plaintiff requests that the Court grant an additional 45 days from the Order granting the present motion for Plaintiff to file its Second Amended Complaint, or in the Court's discretion,

another reasonable extension of time following the time for Defendant Holistic Healing to respond to Plaintiff's single interrogatory and the copyright office's granting of Plaintiff's copyright registration at issue.

11. Pursuant to Fed. R. Civ. P. 6(b), a court may grant an extension of time, for good cause.

Respectfully submitted,

/s/ Kristina Martinez
Kristina Martinez
EGOLF + FERLIC +
MARTINEZ + HARWOOD, LLC
123 W. San Francisco St., Second Floor Santa Fe,
NM 87501
(505) 986-9641
kmartinez@EgolfLaw.com

and

/s/ Amanda Osorio
Amanda Osorio
John Di Giacomo
Eric Misterovich
REVISION LEGAL, PLLC
444 Cass St., Suite D Traverse City, MI 49684
(231) 714-0100
john@revisionlegal.com
eric@revisionlegal.com
amanda@revisionlegal.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2020, the foregoing document was filed via the Court's CM/ECF system and a copy thereof was served electronically upon all counsel of record, as reflected by the Court's CM/ECF system.

/s/ Kristina Martinez
Kristina Martinez